

AMENDED IN ASSEMBLY APRIL 29, 2003

AMENDED IN ASSEMBLY APRIL 3, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1493

Introduced by Assembly Member Runner
(Principal coauthor: Assembly Member Matthews)

February 21, 2003

An act to ~~amend Section 7052 of the Health and Safety Code,, to amend Section 290 of, and to add Section 287 to;~~ the Penal Code, relating to human remains.

LEGISLATIVE COUNSEL'S DIGEST

AB 1493, as amended, Runner. Human remains.

Existing law provides that, with certain exceptions, every person who willfully mutilates, disinters, or removes from the place of interment any human remains, without authority of law, is guilty of a felony.

This bill would revise that definition of a felony to include within its scope any person who penetrates human remains for sexual gratification.

By changing the definition of a crime, this bill would impose a state-mandated local program.

Existing law requires persons convicted of certain sex offenses to register with local law enforcement officials, as specified.

This bill would add the offenses of “sexual intercourse with a dead human body” and “sexual contact with a dead human body” to the list of sex offenses subject to the registration requirements.

Existing law establishes various sex offenses.

~~This bill would establish the offense of “sexual intercourse with a dead human body,” punishable by imprisonment in the state prison for not less than three years nor more than ten years, and a restitution fine not to exceed \$25,000, payable to the Victim Restitution Fund. This bill would also establish the offense of “sexual contact with a dead human body,” punishable by imprisonment in the state prison for not less than one year nor more than seven years, and a restitution fine not to exceed \$10,000, payable to the Victim Restitution Fund.~~

This bill would establish the offenses of sexual penetration of a dead human body and sexual contact with a dead human body. The bill would provide that these offense are felonies.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—Section 7052 of the Health and Safety Code is~~
- 2 ~~amended to read:~~
- 3 ~~7052.—Every person who willfully mutilates, disinters, or~~
- 4 ~~removes from the place of interment, or penetrates for sexual~~
- 5 ~~gratification, any human remains, without authority of law, is~~
- 6 ~~guilty of a felony. This section does not apply to any person who,~~
- 7 ~~under authority of law, removes the remains for reinterment or~~
- 8 ~~performs a cremation.~~
- 9 ~~SEC. 2.—No reimbursement is required by this act pursuant to~~
- 10 ~~Section 6 of Article XIII B of the California Constitution because~~
- 11 ~~the only costs that may be incurred by a local agency or school~~
- 12 ~~district will be incurred because this act creates a new crime or~~
- 13 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
- 14 ~~for a crime or infraction, within the meaning of Section 17556 of~~
- 15 ~~the Government Code, or changes the definition of a crime within~~



1 ~~the meaning of Section 6 of Article XIII B of the California~~
2 ~~Constitution.~~

3 ~~SEC. 2. Section 290 of the Penal Code is amended to read:~~

4 ~~290. (a) (1) (A) Every person described in paragraph (2),~~
5 ~~for the rest of his or her life while residing in, or, if he or she has~~
6 ~~no residence, while located within California, or while attending~~
7 ~~school or working in California, as described in subparagraph (G),~~
8 ~~shall be required to register with the chief of police of the city in~~
9 ~~which he or she is residing, or if he or she has no residence, is~~
10 ~~located, or the sheriff of the county if he or she is residing, or if he~~
11 ~~or she has no residence, is located, in an unincorporated area or city~~
12 ~~that has no police department, and, additionally, with the chief of~~
13 ~~police of a campus of the University of California, the California~~
14 ~~State University, or community college if he or she is residing, or~~
15 ~~if he or she has no residence, is located upon the campus or in any~~
16 ~~of its facilities, within five working days of coming into, or~~
17 ~~changing his or her residence or location within, any city, county,~~
18 ~~or city and county, or campus in which he or she temporarily~~
19 ~~resides, or, if he or she has no residence, is located.~~

20 ~~(B) If the person who is registering has more than one residence~~
21 ~~address or location at which he or she regularly resides or is~~
22 ~~located, he or she shall register in accordance with subparagraph~~
23 ~~(A) in each of the jurisdictions in which he or she regularly resides~~
24 ~~or is located. If all of the addresses or locations are within the same~~
25 ~~jurisdiction, the person shall provide the registering authority with~~
26 ~~all of the addresses or locations where he or she regularly resides~~
27 ~~or is located.~~

28 ~~(C) If the person who is registering has no residence address,~~
29 ~~he or she shall update his or her registration no less than once every~~
30 ~~60 days in addition to the requirement in subparagraph (A), on a~~
31 ~~form as may be required by the Department of Justice, with the~~
32 ~~entity or entities described in subparagraph (A) in whose~~
33 ~~jurisdiction he or she is located at the time he or she is updating the~~
34 ~~registration.~~

35 ~~(D) Beginning on his or her first birthday following~~
36 ~~registration or change of address, the person shall be required to~~
37 ~~register annually, within five working days of his or her birthday,~~
38 ~~to update his or her registration with the entities described in~~
39 ~~subparagraph (A). At the annual update, the person shall provide~~
40 ~~current information as required on the Department of Justice~~

~~1 annual update form, including the information described in
2 subparagraphs (A) to (C), inclusive, of paragraph (2) of
3 subdivision (e).~~

~~4 (E) In addition, every person who has ever been adjudicated a
5 sexually violent predator, as defined in Section 6600 of the
6 Welfare and Institutions Code, shall, after his or her release from
7 custody, verify his or her address no less than once every 90 days
8 and place of employment, including the name and address of the
9 employer, in a manner established by the Department of Justice.~~

~~10 (F) No entity shall require a person to pay a fee to register or
11 update his or her registration pursuant to this section. The
12 registering agency shall submit registrations, including annual
13 updates or changes of address, directly into the Department of
14 Justice Violent Crime Information Network (VCIN).~~

~~15 (G) Persons required to register in their state of residence who
16 are out-of-state residents employed, or carrying on a vocation in
17 California on a full-time or part-time basis, with or without
18 compensation, for more than 14 days, or for an aggregate period
19 exceeding 30 days in a calendar year, shall register in accordance
20 with subparagraph (A). Persons described in paragraph (2) who
21 are out-of-state residents enrolled in any educational institution in
22 California, as defined in Section 22129 of the Education Code, on
23 a full-time or part-time basis, shall register in accordance with
24 subparagraph (A). The place where the out-of-state resident is
25 located, for purposes of registration, shall be the place where the
26 person is employed, carrying on a vocation, or attending school.
27 The out-of-state resident subject to this subparagraph shall, in
28 addition to the information required pursuant to subdivision (e),
29 provide the registering authority with the name of his or her place
30 of employment or the name of the school attended in California,
31 and his or her address or location in his or her state of residence.
32 The registration requirement for persons subject to this
33 subparagraph shall become operative on November 25, 2000. The
34 terms "employed or carries on a vocation" include employment
35 whether or not financially compensated, volunteered, or
36 performed for government or educational benefit.~~

~~37 (2) The following persons shall be required to register pursuant
38 to paragraph (1):~~

~~39 (A) Any person who, since July 1, 1944, has been or is hereafter
40 convicted in any court in this state or in any federal or military~~

1 court of a violation of Section 207 or 209 committed with intent
2 to violate Section 261, 286, 287, 288, 288a, or 289, Section 220,
3 except assault to commit mayhem, Section 243.4, paragraph (1);
4 (2), (3), (4), or (6) of subdivision (a) of Section 261, or paragraph
5 (1) of subdivision (a) of Section 262 involving the use of force or
6 violence for which the person is sentenced to the state prison;
7 Section 264.1, 266, 266e, subdivision (b) of Section 266h,
8 subdivision (b) of Section 266i, 266j, 267, 269, 285, 286, 288,
9 288a, 288.5, or 289, subdivision (b), (c), or (d) of Section 311.2,
10 Section 311.3, 311.4, 311.10, 311.11, or 647.6, former Section
11 647a, subdivision (e) of Section 653f, subdivision 1 or 2 of Section
12 314, any offense involving lewd or lascivious conduct under
13 Section 272, or any felony violation of Section 288.2; or any
14 person who since that date has been or is hereafter convicted of the
15 attempt to commit any of the above-mentioned offenses.

16 (B) Any person who, since July 1, 1944, has been or hereafter
17 is released, discharged, or paroled from a penal institution where
18 he or she was confined because of the commission or attempted
19 commission of one of the offenses described in subparagraph (A).

20 (C) Any person who, since July 1, 1944, has been or hereafter
21 is determined to be a mentally disordered sex offender under
22 Article 1 (commencing with Section 6300) of Chapter 2 of Part 2
23 of Division 6 of the Welfare and Institutions Code or any person
24 who has been found guilty in the guilt phase of a trial for an offense
25 for which registration is required by this section but who has been
26 found not guilty by reason of insanity in the sanity phase of the
27 trial.

28 (D) Any person who, since July 1, 1944, has been, or is
29 hereafter convicted in any other court, including any state, federal,
30 or military court, of any offense that, if committed or attempted in
31 this state, would have been punishable as one or more of the
32 offenses described in subparagraph (A) or any person ordered by
33 any other court, including any state, federal, or military court, to
34 register as a sex offender for any offense, if the court found at the
35 time of conviction or sentencing that the person committed the
36 offense as a result of sexual compulsion or for purposes of sexual
37 gratification.

38 (E) Any person ordered by any court to register pursuant to this
39 section for any offense not included specifically in this section if
40 the court finds at the time of conviction or sentencing that the

1 ~~person committed the offense as a result of sexual compulsion or~~
2 ~~for purposes of sexual gratification. The court shall state on the~~
3 ~~record the reasons for its findings and the reasons for requiring~~
4 ~~registration.~~

5 (F) (i) ~~Notwithstanding any other subdivision, a person who~~
6 ~~was convicted before January 1, 1976, under subdivision (a) of~~
7 ~~Section 286, or Section 288a, shall not be required to register~~
8 ~~pursuant to this section for that conviction if the conviction was for~~
9 ~~conduct between consenting adults that was decriminalized by~~
10 ~~Chapter 71 of the Statutes of 1975 or Chapter 1139 of the Statutes~~
11 ~~of 1976. The Department of Justice shall remove that person from~~
12 ~~the Sex Offender Registry, and the person is discharged from his~~
13 ~~or her duty to register pursuant to the following procedure:~~

14 (I) ~~The person submits to the Department of Justice official~~
15 ~~documentary evidence, including court records or police reports,~~
16 ~~that demonstrate that the person's conviction pursuant to either of~~
17 ~~those sections was for conduct between consenting adults that was~~
18 ~~decriminalized; or~~

19 (II) ~~The person submits to the department a declaration stating~~
20 ~~that the person's conviction pursuant to either of those sections was~~
21 ~~for consensual conduct between adults that has been~~
22 ~~decriminalized. The declaration shall be confidential and not a~~
23 ~~public record, and shall include the person's name, address,~~
24 ~~telephone number, date of birth, and a summary of the~~
25 ~~circumstances leading to the conviction, including the date of the~~
26 ~~conviction and county of the occurrence.~~

27 (III) ~~The department shall determine whether the person's~~
28 ~~conviction was for conduct between consensual adults that has~~
29 ~~been decriminalized. If the conviction was for consensual conduct~~
30 ~~between adults that has been decriminalized, and the person has no~~
31 ~~other offenses for which he or she is required to register pursuant~~
32 ~~to this section, the department shall, within 60 days of receipt of~~
33 ~~those documents, notify the person that he or she is relieved of the~~
34 ~~duty to register, and shall notify the local law enforcement agency~~
35 ~~with which the person is registered that he or she has been relieved~~
36 ~~of the duty to register. The local law enforcement agency shall~~
37 ~~remove the person's registration from its files within 30 days of~~
38 ~~receipt of notification. If the documentary or other evidence~~
39 ~~submitted is insufficient to establish the person's claim, the~~
40 ~~department shall, within 60 days of receipt of those documents,~~

1 notify the person that his or her claim cannot be established, and
2 that the person shall continue to register pursuant to this section.
3 The department shall provide, upon the person's request, any
4 information relied upon by the department in making its
5 determination that the person shall continue to register pursuant to
6 this section. Any person whose claim has been denied by the
7 department pursuant to this clause may petition the court to appeal
8 the department's denial of the person's claim.

9 (ii) On or before July 1, 1998, the department shall make a
10 report to the Legislature concerning the status of persons who may
11 come under the provisions of this subparagraph, including the
12 number of persons who were convicted before January 1, 1976,
13 under subdivision (a) of Section 286 or Section 288a and are
14 required to register under this section, the average age of these
15 persons, the number of these persons who have any subsequent
16 convictions for a registerable sex offense, and the number of these
17 persons who have sought successfully or unsuccessfully to be
18 relieved of their duty to register under this section.

19 (b) (1) Any person who is released, discharged, or paroled
20 from a jail, state or federal prison, school, road camp, or other
21 institution where he or she was confined because of the
22 commission or attempted commission of one of the offenses
23 specified in subdivision (a) or is released from a state hospital to
24 which he or she was committed as a mentally disordered sex
25 offender under Article 1 (commencing with Section 6300) of
26 Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions
27 Code, shall, prior to discharge, parole, or release, be informed of
28 his or her duty to register under this section by the official in charge
29 of the place of confinement or hospital, and the official shall
30 require the person to read and sign any form that may be required
31 by the Department of Justice, stating that the duty of the person to
32 register under this section has been explained to the person. The
33 official in charge of the place of confinement or hospital shall
34 obtain the address where the person expects to reside upon his or
35 her discharge, parole, or release and shall report the address to the
36 Department of Justice. The official shall at the same time forward
37 a current photograph of the person to the Department of Justice.

38 (2) The official in charge of the place of confinement or
39 hospital shall give one copy of the form to the person and shall send
40 one copy to the Department of Justice and one copy to the

1 appropriate law enforcement agency or agencies having
2 jurisdiction over the place the person expects to reside upon
3 discharge, parole, or release. If the conviction that makes the
4 person subject to this section is a felony conviction, the official in
5 charge shall, not later than 45 days prior to the scheduled release
6 of the person, send one copy to the appropriate law enforcement
7 agency or agencies having local jurisdiction where the person
8 expects to reside upon discharge, parole, or release; one copy to the
9 prosecuting agency that prosecuted the person; and one copy to the
10 Department of Justice. The official in charge of the place of
11 confinement or hospital shall retain one copy.

12 (c) (1) Any person who is convicted in this state of the
13 commission or attempted commission of any of the offenses
14 specified in subdivision (a) and who is released on probation, shall,
15 prior to release or discharge, be informed of the duty to register
16 under this section by the probation department, and a probation
17 officer shall require the person to read and sign any form that may
18 be required by the Department of Justice, stating that the duty of
19 the person to register under this section has been explained to him
20 or her. The probation officer shall obtain the address where the
21 person expects to reside upon release or discharge and shall report
22 within three days the address to the Department of Justice. The
23 probation officer shall give one copy of the form to the person,
24 send one copy to the Department of Justice, and forward one copy
25 to the appropriate law enforcement agency or agencies having
26 local jurisdiction where the person expects to reside upon his or her
27 discharge, parole, or release.

28 (2) Any person who is convicted in this state of the commission
29 or attempted commission of any of the offenses specified in
30 subdivision (a) and who is granted conditional release without
31 supervised probation, or discharged upon payment of a fine, shall,
32 prior to release or discharge, be informed of the duty to register
33 under this section in open court by the court in which the person
34 has been convicted, and the court shall require the person to read
35 and sign any form that may be required by the Department of
36 Justice, stating that the duty of the person to register under this
37 section has been explained to him or her. If the court finds that it
38 is in the interest of the efficiency of the court, the court may assign
39 the bailiff to require the person to read and sign forms under this
40 section. The court shall obtain the address where the person

1 expects to reside upon release or discharge and shall report within
2 three days the address to the Department of Justice. The court shall
3 give one copy of the form to the person, send one copy to the
4 Department of Justice, and forward one copy to the appropriate
5 law enforcement agency or agencies having local jurisdiction
6 where the person expects to reside upon his or her discharge,
7 parole, or release.

8 (d) (1) Any person who, on or after January 1, 1986, is
9 discharged or paroled from the Department of the Youth Authority
10 to the custody of which he or she was committed after having been
11 adjudicated a ward of the juvenile court pursuant to Section 602
12 of the Welfare and Institutions Code because of the commission or
13 attempted commission of any offense described in paragraph (3)
14 shall be subject to registration under the procedures of this section.

15 (2) Any person who is discharged or paroled from a facility in
16 another state that is equivalent to the Department of the Youth
17 Authority, to the custody of which he or she was committed
18 because of an offense which, if committed or attempted in this
19 state, would have been punishable as one or more of the offenses
20 described in paragraph (3), shall be subject to registration under
21 the procedures of this section.

22 (3) Any person described in this subdivision who committed an
23 offense in violation of any of the following provisions shall be
24 required to register pursuant to this section:

25 (A) Assault with intent to commit rape, sodomy, oral
26 copulation, or any violation of Section 264.1, 288, or 289 under
27 Section 220.

28 (B) Any offense defined in paragraph (1), (2), (3), (4), or (6) of
29 subdivision (a) of Section 261, Section 264.1, 266c, or 267,
30 paragraph (1) of subdivision (b) of, or subdivision (c) or (d) of,
31 Section 286, Section 288 or 288.5, paragraph (1) of subdivision (b)
32 of, or subdivision (c) or (d) of, Section 288a, subdivision (a) of
33 Section 289, or Section 647.6.

34 (C) A violation of Section 207 or 209 committed with the intent
35 to violate Section 261, 286, 288, 288a, or 289.

36 (4) Prior to discharge or parole from the Department of the
37 Youth Authority, any person who is subject to registration under
38 this subdivision shall be informed of the duty to register under the
39 procedures set forth in this section. Department of the Youth

~~Authority officials shall transmit the required forms and information to the Department of Justice.~~

~~(5) All records specifically relating to the registration in the custody of the Department of Justice, law enforcement agencies, and other agencies or public officials shall be destroyed when the person who is required to register has his or her records sealed under the procedures set forth in Section 781 of the Welfare and Institutions Code. This subdivision shall not be construed as requiring the destruction of other criminal offender or juvenile records relating to the case that are maintained by the Department of Justice, law enforcement agencies, the juvenile court, or other agencies and public officials unless ordered by a court under Section 781 of the Welfare and Institutions Code.~~

~~(c) (1) On or after January 1, 1998, upon incarceration, placement, or commitment, or prior to release on probation, any person who is required to register under this section shall preregister. The preregistering official shall be the admitting officer at the place of incarceration, placement, or commitment, or the probation officer if the person is to be released on probation. The preregistration shall consist of both of the following:~~

~~(A) A preregistration statement in writing, signed by the person, giving information that shall be required by the Department of Justice.~~

~~(B) The fingerprints and a current photograph of the person.~~

~~(C) Any person who is preregistered pursuant to this subdivision is required to be preregistered only once.~~

~~(2) A person described in paragraph (2) of subdivision (a) shall register, or reregister if the person has previously registered, upon release from incarceration, placement, or commitment, pursuant to paragraph (1) of subdivision (a). The registration shall consist of all of the following:~~

~~(A) A statement in writing signed by the person, giving information as shall be required by the Department of Justice and giving the name and address of the person's employer, and the address of the person's place of employment if that is different from the employer's main address.~~

~~(B) The fingerprints and a current photograph of the person taken by the registering official.~~

~~(C) The license plate number of any vehicle owned by, regularly driven by, or registered in the name of the person.~~

1 (D) Notice to the person that, in addition to the requirements of
2 paragraph (4), he or she may have a duty to register in any other
3 state where he or she may relocate.

4 (E) Copies of adequate proof of residence, which shall be
5 limited to a California driver's license, California identification
6 card, recent rent or utility receipt, printed personalized checks or
7 other recent banking documents showing that person's name and
8 address, or any other information that the registering official
9 believes is reliable. If the person has no residence and no
10 reasonable expectation of obtaining a residence in the foreseeable
11 future, the person shall so advise the registering official and shall
12 sign a statement provided by the registering official stating that
13 fact. Upon presentation of proof of residence to the registering
14 official or a signed statement that the person has no residence, the
15 person shall be allowed to register. If the person claims that he or
16 she has a residence but does not have any proof of residence, he or
17 she shall be allowed to register but shall furnish proof of residence
18 within 30 days of the day he or she is allowed to register.

19 (3) Within three days thereafter, the preregistering official or
20 the registering law enforcement agency or agencies shall forward
21 the statement, fingerprints, photograph, and vehicle license plate
22 number, if any, to the Department of Justice.

23 (f) (1) If any person who is required to register pursuant to this
24 section changes his or her residence address or location, whether
25 within the jurisdiction in which he or she is currently registered or
26 to a new jurisdiction inside or outside the state, the person shall
27 inform, in writing within five working days, the law enforcement
28 agency or agencies with which he or she last registered of the new
29 address or location. The law enforcement agency or agencies shall,
30 within three days after receipt of this information, forward a copy
31 of the change of address or location information to the Department
32 of Justice. The Department of Justice shall forward appropriate
33 registration data to the law enforcement agency or agencies having
34 local jurisdiction of the new place of residence or location.

35 (2) If the person's new address is in a Department of the Youth
36 Authority facility or a state prison or state mental institution, an
37 official of the place of incarceration, placement, or commitment
38 shall, within 90 days of receipt of the person, forward the
39 registrant's change of address information to the Department of
40 Justice. The agency need not provide a physical address for the

1 registrant but shall indicate that he or she is serving a period of
2 incarceration or commitment in a facility under the agency's
3 jurisdiction. This paragraph shall apply to persons received in a
4 Department of the Youth Authority facility or a state prison or state
5 mental institution on or after January 1, 1999. The Department of
6 Justice shall forward the change of address information to the
7 agency with which the person last registered.

8 (3) If any person who is required to register pursuant to this
9 section changes his or her name, the person shall inform, in person,
10 the law enforcement agency or agencies with which he or she is
11 currently registered within five working days. The law
12 enforcement agency or agencies shall forward a copy of this
13 information to the Department of Justice within three days of its
14 receipt.

15 (g) (1) Any person who is required to register under this
16 section based on a misdemeanor conviction or juvenile
17 adjudication who willfully violates any requirement of this section
18 is guilty of a misdemeanor punishable by imprisonment in a
19 county jail not exceeding one year.

20 (2) Except as provided in paragraphs (5) and (7), any person
21 who is required to register under this section based on a felony
22 conviction or juvenile adjudication who willfully violates any
23 requirement of this section or who has a prior conviction or
24 juvenile adjudication for the offense of failing to register under this
25 section and who subsequently and willfully violates any
26 requirement of this section is guilty of a felony and shall be
27 punished by imprisonment in the state prison for 16 months, or two
28 or three years.

29 If probation is granted or if the imposition or execution of
30 sentence is suspended, it shall be a condition of the probation or
31 suspension that the person serve at least 90 days in a county jail.
32 The penalty described in this paragraph shall apply whether or not
33 the person has been released on parole or has been discharged from
34 parole.

35 (3) Any person determined to be a mentally disordered sex
36 offender or who has been found guilty in the guilt phase of trial for
37 an offense for which registration is required under this section, but
38 who has been found not guilty by reason of insanity in the sanity
39 phase of the trial, or who has had a petition sustained in a juvenile
40 adjudication for an offense for which registration is required under

~~this section pursuant to subdivision (d), but who has been found not guilty by reason of insanity, who willfully violates any requirement of this section is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding one year. For any second or subsequent willful violation of any requirement of this section, the person is guilty of a felony and shall be punished by imprisonment in the state prison for 16 months, or two or three years.~~

~~(4) If, after discharge from parole, the person is convicted of a felony or suffers a juvenile adjudication as specified in this subdivision, he or she shall be required to complete parole of at least one year, in addition to any other punishment imposed under this subdivision. A person convicted of a felony as specified in this subdivision may be granted probation only in the unusual case where the interests of justice would best be served. When probation is granted under this paragraph, the court shall specify on the record and shall enter into the minutes the circumstances indicating that the interests of justice would best be served by the disposition.~~

~~(5) Any person who has ever been adjudicated a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, and who fails to verify his or her registration every 90 days as required pursuant to subparagraph (E) of paragraph (1) of subdivision (a), shall be punished by imprisonment in the state prison, or in a county jail not exceeding one year.~~

~~(6) Except as otherwise provided in paragraph (5), and in addition to any other penalty imposed under this subdivision, any person who is required pursuant to subparagraph (C) of paragraph (1) of subdivision (a) to update his or her registration every 60 days and willfully fails to update his or her registration is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months. Any subsequent violation of this requirement that persons described in subparagraph (C) of paragraph (1) of subdivision (a) shall update their registration every 60 days is also a misdemeanor and shall be punished by imprisonment in a county jail not exceeding six months.~~

~~(7) Any person who fails to provide proof of residence as required by subparagraph (E) of paragraph (2) of subdivision (c), regardless of the offense upon which the duty to register is based,~~

1 is guilty of a misdemeanor punishable by imprisonment in a
2 county jail not exceeding six months.

3 (8) Any person who is required to register under this section
4 who willfully violates any requirement of this section is guilty of
5 a continuing offense.

6 (h) Whenever any person is released on parole or probation and
7 is required to register under this section but fails to do so within
8 the time prescribed, the parole authority, the Youthful Offender
9 Parole Board, or the court, as the case may be, shall order the
10 parole or probation of the person revoked. For purposes of this
11 subdivision, "parole authority" has the same meaning as
12 described in Section 3000.

13 (i) Except as provided in subdivisions (m) and (n) and Section
14 290.4, the statements, photographs, and fingerprints required by
15 this section shall not be open to inspection by the public or by any
16 person other than a regularly employed peace officer or other law
17 enforcement officer.

18 (j) In any case in which a person who would be required to
19 register pursuant to this section for a felony conviction is to be
20 temporarily sent outside the institution where he or she is confined
21 on any assignment within a city or county including firefighting,
22 disaster control, or of whatever nature the assignment may be, the
23 local law enforcement agency having jurisdiction over the place
24 or places where the assignment shall occur shall be notified within
25 a reasonable time prior to removal from the institution. This
26 subdivision shall not apply to any person who is temporarily
27 released under guard from the institution where he or she is
28 confined.

29 (k) As used in this section, "mentally disordered sex offender"
30 includes any person who has been determined to be a sexual
31 psychopath or a mentally disordered sex offender under any
32 provision which, on or before January 1, 1976, was contained in
33 Division 6 (commencing with Section 6000) of the Welfare and
34 Institutions Code.

35 (l) *(1) Every person who, prior to January 1, 1997, is required*
36 *to register under this section, shall be notified whenever he or she*
37 *next reregisters of the reduction of the registration period from 14*
38 *to five working days. This notice shall be provided in writing by the*
39 *registering agency or agencies. Failure to receive this notification*

~~shall be a defense against the penalties prescribed by subdivision (g) if the person did register within 14 days.~~

~~(2) Every person who, as a sexually violent predator, as defined in Section 6600 of the Welfare and Institutions Code, is required to verify his or her registration every 90 days, shall be notified wherever he or she next registers of his or her increased registration obligations. This notice shall be provided in writing by the registering agency or agencies. Failure to receive this notice shall be a defense against the penalties prescribed by paragraph (5) of subdivision (g).~~

~~(m) (1) When a peace officer reasonably suspects, based on information that has come to his or her attention through information provided by any peace officer or member of the public, that a child or other person may be at risk from a sex offender convicted of a crime listed in paragraph (1) of subdivision (a) of Section 290.4, a law enforcement agency may, notwithstanding any other provision of law, provide any of the information specified in paragraph (4) of this subdivision about that registered sex offender that the agency deems relevant and necessary to protect the public, to the following persons, agencies, or organizations the offender is likely to encounter, including, but not limited to, the following:~~

~~(A) Public and private educational institutions, day care establishments, and establishments and organizations that primarily serve individuals likely to be victimized by the offender.~~

~~(B) Other community members at risk.~~

~~(2) The law enforcement agency may authorize persons and entities who receive the information pursuant to paragraph (1) to disclose information to additional persons only if the agency does the following:~~

~~(A) Determines that all conditions set forth in paragraph (1) have been satisfied regarding disclosure to the additional persons.~~

~~(B) Identifies the appropriate scope of further disclosure.~~

~~(3) Persons notified pursuant to paragraph (1) may disclose the information provided by the law enforcement agency in the manner and to the extent authorized by the law enforcement agency.~~

~~(4) The information that may be disclosed pursuant to this section includes the following:~~

~~(A) The offender's full name.~~

1 ~~(B) The offender's known aliases.~~

2 ~~(C) The offender's gender.~~

3 ~~(D) The offender's race.~~

4 ~~(E) The offender's physical description.~~

5 ~~(F) The offender's photograph.~~

6 ~~(G) The offender's date of birth.~~

7 ~~(H) Crimes resulting in registration under this section.~~

8 ~~(I) The offender's address, which must be verified prior to~~
9 ~~publication.~~

10 ~~(J) Description and license plate number of offender's vehicles~~
11 ~~or vehicles the offender is known to drive.~~

12 ~~(K) Type of victim targeted by the offender.~~

13 ~~(L) Relevant parole or probation conditions, such as one~~
14 ~~prohibiting contact with children.~~

15 ~~(M) Dates of crimes resulting in classification under this~~
16 ~~section.~~

17 ~~(N) Date of release from confinement.~~

18 ~~(O) The offender's enrollment, employment, or vocational~~
19 ~~status with any university, college, community college, or other~~
20 ~~institution of higher learning.~~

21 ~~However, information disclosed pursuant to this subdivision~~
22 ~~shall not include information that would identify the victim.~~

23 ~~(5) If a law enforcement agency discloses information pursuant~~
24 ~~to this subdivision, it shall include, with the disclosure, a statement~~
25 ~~that the purpose of the release of the information is to allow~~
26 ~~members of the public to protect themselves and their children~~
27 ~~from sex offenders.~~

28 ~~(6) For purposes of this section, "likely to encounter" means~~
29 ~~both of the following:~~

30 ~~(A) That the agencies, organizations, or other community~~
31 ~~members are in a location or in close proximity to a location where~~
32 ~~the offender lives or is employed, or that the offender visits or is~~
33 ~~likely to visit on a regular basis.~~

34 ~~(B) The types of interaction that ordinarily occur at that~~
35 ~~location and other circumstances indicate that contact with the~~
36 ~~offender is reasonably probable.~~

37 ~~(7) For purposes of this section, "reasonably suspects" means~~
38 ~~that it is objectively reasonable for a peace officer to entertain a~~
39 ~~suspicion, based upon facts that could cause a reasonable person~~

1 in a like position, drawing when appropriate on his or her training
2 and experience, to suspect that a child or other person is at risk.

3 (8) For purposes of this section, “at risk” means a person is or
4 may be exposed to a risk of becoming a victim of a sex offense
5 committed by the offender.

6 (9) A law enforcement agency may continue to disclose
7 information on an offender under this subdivision for as long as the
8 offender is included in Section 290.4.

9 (n) In addition to the procedures set forth elsewhere in this
10 section, a designated law enforcement entity may advise the public
11 of the presence of high-risk sex offenders in its community
12 pursuant to this subdivision.

13 (1) For purposes of this subdivision:

14 (A) A high-risk sex offender is a person who has been
15 convicted of an offense specified in paragraph (1) of subdivision
16 (a) of Section 290.4, and also meets one of the following criteria:

17 (i) Has been convicted of three or more violent sex offenses, at
18 least two of which were brought and tried separately.

19 (ii) Has been convicted of two violent sex offenses and one or
20 more violent nonsex offenses, at least two of which were brought
21 and tried separately.

22 (iii) Has been convicted of one violent sex offense and two or
23 more violent nonsex offenses, at least two of which were brought
24 and tried separately.

25 (iv) Has been convicted of either two violent sex offenses or
26 one violent sex offense and one violent nonsex offense, at least two
27 of which were brought and tried separately, and has been arrested
28 on separate occasions for three or more violent sex offenses,
29 violent nonsex offenses, or associated offenses.

30 (v) Has been adjudicated a sexually violent predator pursuant
31 to Article 4 (commencing with Section 6600) of Chapter 2 of Part
32 2 of Division 6 of the Welfare and Institutions Code.

33 (B) A violent sex offense means any offense defined in Section
34 220, except attempt to commit mayhem, or Section 261, 264.1,
35 286, 288, 288a, 288.5, 289, or 647.6, or infliction of great bodily
36 injury during the commission of a sex offense, as provided in
37 Section 12022.8.

38 (C) A violent nonsex offense means any offense defined in
39 Section 187, subdivision (a) of Section 192, or Section 203, 206,
40 207, or 236, provided that the offense is a felony, subdivision (a)

1 of Section 273a, Section 273d or 451, or attempted murder, as
2 defined in Sections 187 and 664.

3 ~~(D) An associated offense means any offense defined in~~
4 ~~Section 243.4, provided that the offense is a felony, Section 311.1,~~
5 ~~311.2, 311.3, 311.4, 311.5, 311.6, 311.7, or 314, Section 459,~~
6 ~~provided the offense is of the first degree, Section 597 or 646.9,~~
7 ~~subdivision (d), (h), or (i) of Section 647, Section 653m, or~~
8 ~~infliction of great bodily injury during the commission of a felony,~~
9 ~~as defined in Section 12022.7.~~

10 ~~(E) For purposes of subparagraphs (B) to (D), inclusive, an~~
11 ~~arrest or conviction for the statutory predecessor of any of the~~
12 ~~enumerated offenses, or an arrest or conviction in any other~~
13 ~~jurisdiction for any offense that, if committed or attempted in this~~
14 ~~state, would have been punishable as one or more of the offenses~~
15 ~~described in those subparagraphs, is to be considered in~~
16 ~~determining whether an offender is a high-risk sex offender.~~

17 ~~(F) For purposes of subparagraphs (B) to (D), inclusive, an~~
18 ~~arrest as a juvenile or an adjudication as a ward of the juvenile~~
19 ~~court within the meaning of Section 602 of the Welfare and~~
20 ~~Institutions Code for any of the offenses described in those~~
21 ~~subparagraphs is to be considered in determining whether an~~
22 ~~offender is a high-risk sex offender.~~

23 ~~(G) Notwithstanding subparagraphs (A) to (D), inclusive, an~~
24 ~~offender shall not be considered to be a high-risk sex offender if~~
25 ~~either of the following apply:~~

26 ~~(i) The offender's most recent conviction or arrest for an~~
27 ~~offense described in subparagraphs (B) to (D), inclusive, occurred~~
28 ~~more than five years prior to the high-risk assessment by the~~
29 ~~Department of Justice, excluding periods of confinement.~~

30 ~~(ii) The offender notifies the Department of Justice, on a form~~
31 ~~approved by the department and available at any sheriff's office,~~
32 ~~that he or she has not been convicted in the preceding 15 years,~~
33 ~~excluding periods of confinement, of an offense for which~~
34 ~~registration is required under paragraph (2) of subdivision (a), and~~
35 ~~the department is able, upon exercise of reasonable diligence, to~~
36 ~~verify the information provided in paragraph (2).~~

37 ~~(H) "Confinement" means confinement in a jail, prison,~~
38 ~~school, road camp, or other penal institution, confinement in a~~
39 ~~state hospital to which the offender was committed as a mentally~~
40 ~~disordered sex offender under Article 1 (commencing with~~

Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code, or confinement in a facility designated by the Director of Mental Health to which the offender was committed as a sexually violent predator under Article 4 (commencing with Section 6600) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code.

(1) “Designated law enforcement entity” means any of the following: municipal police department; sheriff’s department; district attorney’s office; county probation department; Department of Justice; Department of Corrections; Department of the Youth Authority; Department of the California Highway Patrol; or the police department of any campus of the University of California, California State University, or community college.

(2) The Department of Justice shall continually search the records provided to it pursuant to subdivision (b) and identify, on the basis of those records, high-risk sex offenders. Four times each year, the department shall provide to each chief of police and sheriff in the state, and to any other designated law enforcement entity upon request, the following information regarding each identified high-risk sex offender: full name; known aliases; gender; race; physical description; photograph; date of birth; and crimes resulting in classification under this section.

(3) The Department of Justice and any designated law enforcement entity to which notice has been given pursuant to paragraph (2) may cause to be made public, by whatever means the agency deems necessary to ensure the public safety, based upon information available to the agency concerning a specific person, including, but not limited to, the information described in paragraph (2); the offender’s address, which shall be verified prior to publication; description and license plate number of the offender’s vehicle or vehicles the offender is known to drive; type of victim targeted by the offender; relevant parole or probation conditions, such as one prohibiting contact with children; dates of crimes resulting in classification under this section; and date of release from confinement; but excluding information that would identify the victim.

(4) Notwithstanding any other provision of law, any person described in paragraph (2) of subdivision (p) who receives information from a designated law enforcement entity pursuant to

1 paragraph (3) may disclose that information in the manner and to
2 the extent authorized by the law enforcement entity.

3 (5) The law enforcement agency may authorize persons and
4 entities who receive the information pursuant to paragraph (3) to
5 disclose information to additional persons only if the agency does
6 the following:

7 (A) Determines that all conditions set forth in this subdivision
8 have been satisfied regarding disclosure to the additional persons.

9 (B) Identifies the appropriate scope of further disclosure.

10 (o) Agencies disseminating information to the public pursuant
11 to Section 290.4 shall maintain records of those persons requesting
12 to view the CD-ROM or other electronic media for a minimum of
13 five years. Agencies disseminating information to the public
14 pursuant to subdivision (n) shall maintain records of the means and
15 dates of dissemination for a minimum of five years.

16 (p) (1) Any law enforcement agency and employees of any
17 law enforcement agency shall be immune from liability for good
18 faith conduct under this section. For the purposes of this section,
19 “law enforcement agency” means the Attorney General of
20 California, every district attorney, the Department of Corrections,
21 the Department of the Youth Authority, and every state or local
22 agency expressly authorized by statute to investigate or prosecute
23 law violators.

24 (2) Any public or private educational institution, daycare
25 facility, or any childcare custodian described in Section 11165.7,
26 or any employee of a public or private educational institution or
27 daycare facility which in good faith disseminates information as
28 authorized pursuant to paragraph (3) of subdivision (m) or
29 paragraph (4) of subdivision (n) that is provided by a law
30 enforcement agency or an employee of a law enforcement agency
31 shall be immune from civil liability.

32 (q) (1) Any person who uses information disclosed pursuant to
33 this section to commit a felony shall be punished, in addition and
34 consecutive to any other punishment, by a five-year term of
35 imprisonment in the state prison.

36 (2) Any person who uses information disclosed pursuant to this
37 section to commit a misdemeanor shall be subject to, in addition
38 to any other penalty or fine imposed, a fine of not less than five
39 hundred dollars (\$500) and not more than one thousand dollars
40 (\$1,000).

1 ~~(r) The registration and public notification provisions of this~~
2 ~~section are applicable to every person described in this section,~~
3 ~~without regard to when his or her crimes were committed or his or~~
4 ~~her duty to register pursuant to this section arose, and to every~~
5 ~~offense described in this section, regardless of when it was~~
6 ~~committed.~~

7 ~~SEC. 3. Section 287 is added to the Penal Code, to read:~~

8 ~~287. (a) This section shall be known and may be cited as~~
9 ~~Robyn's Law.~~

10 ~~(b) Any person who has sexual intercourse or sexual contact~~
11 ~~with a dead human body is guilty of a felony as set forth herein.~~

12 ~~(c) The following apply, regardless of the state of~~
13 ~~decomposition of a dead human body, for purposes of this section:~~

14 ~~(1) "Sexual intercourse" occurs upon any penetration of the~~
15 ~~vagina or anus, however slight, by any part of a person's body or~~
16 ~~other object, or any act of sexual contact between the sex organs~~
17 ~~of a person and the mouth or anus of a dead body, or any oral~~
18 ~~copulation of a dead human body.~~

19 ~~(2) "Sexual contact" means any willful touching by a person~~
20 ~~of the vagina, anus, breasts, penis, testicles, or mouth of a dead~~
21 ~~human body, or any act of masturbation on any part of a dead~~
22 ~~human body.~~

23 ~~(d) Sexual intercourse with a dead human body is punishable~~
24 ~~by imprisonment in the state prison for not less than three years nor~~
25 ~~more than ten years, and a restitution fine not to exceed~~
26 ~~twenty-five thousand dollars (\$25,000), payable to the Victim~~
27 ~~Restitution Fund.~~

28 ~~(e) Sexual contact with a dead human body is punishable by~~
29 ~~imprisonment in the state prison for not less than one year nor more~~
30 ~~than seven years, and a restitution fine not to exceed ten thousand~~
31 ~~dollars (\$10,000), payable to the Victim Restitution Fund.~~

32 ~~(f) All persons convicted pursuant to this section shall register~~
33 ~~as a sex offender pursuant to Section 290.~~

34 ~~SECTION 1. This act shall be known and may be cited as~~
35 ~~Robyn's Law.~~

36 ~~SEC. 2. Section 287 is added to the Penal Code, to read:~~

37 ~~287. (a) Any person who commits sexual penetration of, or~~
38 ~~has sexual contact with, a dead human body is guilty of a felony.~~

39 ~~(b) As used in this section, "sexual penetration" means the~~
40 ~~unlawful penetration of the vagina or anus, however slight, by any~~

1 *part of a person's body or other object, or any act of sexual contact*
2 *between the sex organs of a person and the mouth or anus of a dead*
3 *body, or any oral copulation of a dead human body.*

4 *(c) As used in this section, "sexual contact" means any willful*
5 *touching by a person of an intimate part of a dead human body for*
6 *the purpose of sexual arousal, sexual gratification, or sexual*
7 *abuse.*

8 *SEC. 3. No reimbursement is required by this act pursuant to*
9 *Section 6 of Article XIII B of the California Constitution because*
10 *the only costs that may be incurred by a local agency or school*
11 *district will be incurred because this act creates a new crime or*
12 *infraction, eliminates a crime or infraction, or changes the penalty*
13 *for a crime or infraction, within the meaning of Section 17556 of*
14 *the Government Code, or changes the definition of a crime within*
15 *the meaning of Section 6 of Article XIII B of the California*
16 *Constitution.*

